

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, January 10, 2007, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, December 20, 2006 Worksession.

Action: Approved, (WMH/CGT, 4-0).

2. **A-6117, Appeal of Mary Hemingway and Edward Purich for Cloverly Civic Association** (Department of Permitting Services – Issuance of Building Permit No. 402806, dated November 11, 2005). Letter to the Board from Edward Purich requesting a refund of the filing fee.

Action: Granted 100% (\$200.00) refund of the filing fee, (CLH/CGT, 4-0).

3. **A-6139, Petition of James DeMattio** (two-story addition, second-story addition, deck). Letter to the Board from the petitioner requesting administrative modification).

Action: Item deferred for a later Board Worksession, consensus.

4. **A-6156, Petition of Mohmoud Abulhawa** (one-story addition). Letter to the Board from John McFadden requesting reconsideration.

Action: Denied request for reconsideration, (CLH/WMH, 4-0).

5. **A-6173, Appeal of Kathryn East-Fausnaugh and Barry Fausnaugh** (Department of Permitting Services – Issuance of Building Permit No. 401849, dated August 24, 2006). Letter to the Board from David Brown, Esquire, withdrawing the administrative appeal and requesting a refund of the filing fee.

Action: (1) Dismissed the appeal as withdrawn, (2) granted 50% (\$100.00) refund of the filing fee, (WMH/CGT, 4-0).

6. **A-6179, Appeal of Kevin Rank and Harriet Quinn** (Department of Permitting Services – Issuance of Building Permit No. 431738, dated September 8, 2006). Letter to the Board from Damian Grasso requesting to intervene.

Action: Granted the request to intervene, (CGT/CLH, 4-0).

7. **A-6189, Appeal of Catherine A. Cotter** (Historic Preservation Commission – Public Decision granting Application No. 35/13-06DD, dated November 15, 2006).

Letter to the Board from Paula Bresnan Gibson and Duane R. Gibson requesting to intervene. Also included is letter from Todd Brown, Esquire, entering his appearance on their behalf.

Action: (1) Granted the request to intervene; (2) included Mr. Brown's letter in the record, (CGT/CLH, 4-0).

8. **S-226 [S-226-A, S-226-B], Petition of Westleigh Recreation Club, Inc.** (private club). Letters of opposition to the Board regarding modification of the special exception from Jackie and John Severynse and Robert and Catherine Williams.

Action: (1) Re-opened the record to include the letters from Mr. and Mrs. Severynse and Mr. and Mrs. Williams, (CGT/CLH, 4-0).

9. **S-289-B, Petition Little Falls Swim and Tennis Club** (community swimming pool). Letter to the Board from Thomas Corwin, President, Little Falls Swimming Club, submitting the annual report, a final lighting plan and a revised landscape plan. [Large exhibits: final lighting and revised landscape plans].

Action: (1) Re-opened the record to include the letter from Mr. Corwin with the annual report and final lighting plan; (2) deferred inclusion of the revised landscape plan until the Board's next Worksession.

10. **S-862, Petition of Federation of American Societies for Experimental Biology** (private educational institution). Letter to the Board from Allen Myers, President, Maplewood Citizens Association.

Action: Re-opened the record to include Mr. Myers' letter, (CGT/CLH, 4-0).

11. **S-1365, Petition of Tahira Azziz** (group residential facility for exceptional persons). Letter from petitioner confirming that the special exception was never implemented or in operation.

Action: (1) Re-opened the record to include the letter from the petitioner; (2) revoked the special exception for failure to implement, (CLH/CGT, 4-0).

12. **S-1812, Petition of Suchat and Chamchoi Suthisanakul** (horticultural nursery and landscape contractor). Memorandum to the Board from Heather Gottke, Inspector, Department of Permitting Services (DPS), requesting that Board rescind the requested Show Cause Hearing and revoke the special exception because it was never implemented.

Action: (1) Re-opened the record to include Ms. Gottke's memorandum; (2) revoked special exception for failure to implement, (CLH/CGT, 4-0).

13. **S-2029, Petition of Southwestern Bell Mobile Systems, Inc.** (public utility buildings, public utility structures and telecommunications facilities). Letter from Robert Harris, Esquire, notifying the Board of the development of property adjacent to the special exception.

Action: Re-opened the record to include Mr. Harris' letter, (CLH/CGT, 3-0/AIF/recused).

14. **S-2207, Petition of Mid-Atlantic Petroleum Properties, Inc.** (automobile filling station). Letter to the Board from Stanley Abrams, Esquire, requesting an

administrative modification. [Large exhibits: zoning vicinity map and site development plan].

Action: Granted the administrative modification, (CGT/WMH, 4-0).

15. **S-2409, Petition of McDonald's Corporation** (drive-in restaurant). Letter to the Board from Ronald Gantt, Owner/Operator, requesting an administrative modification.

Action: Item deferred for the Board's next Worksession, consensus.

16. **S-2453, Petition of Academy Child Development** (child day care facility). Inspection report from Heather Gottke, Inspector, DPS, in response to the Board's Resolution dated October 13, 2006.

Action: Re-opened the record to include Ms. Gottke's memorandum, (CGT/WMH, 4-0).

17. **S-2629, Petition of Alan and Susan Dechter LLC** (non-resident medical practitioner). Letter to the Board from Stanley Abrams, Esquire, submitting a Revised Statement of Operations for the special exception. Also included are revised site and landscape plans, as required. [Large exhibits: site and landscape plans].

Action: Re-opened the record to include Mr. Abrams' letter with attachments, (WMH/CLH, 4-0).

18. **S-2686, Petition of Jeanette Benjamin** (retail establishments in a multiple-family dwelling). Memorandum from Carlton Gilbert, Planner Coordinator, M-NCPPC, submitting additional information as requested by the Board regarding the proposed special exception use.

Action: Re-opened the record to include Mr. Gilbert's memorandum, (CLH/WMH, 4-0).

DECISION ITEMS:

19. **S-2659 and S-2660, Petitions of Jeffrey B. Walcoff, D.V.M. and Sheila Dearybury Walcoff** (veterinary hospital and animal boarding). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions, (WMH/CLH, 4-0).

20. **S-2682, Petition of Linda F. Baker and Michael Replogle** (accessory apartment). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions, (CLH/CGT, 4-0).

PENDING ITEMS:

21. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notice of Violation dated September 20, 2005). Second Status Report from Todd Brown, Esquire. (1) Re-opened the record to include the Second Status Report from Todd Brown; (2) the Board will receive Status Reports on 1/15/07 and 4/1/07. [W/S 10/25/06].
22. **CBA-470-A, Petition of Kensington Nursery School** (private educational institution). Hearing Examiner's Report and Recommendation. Item deferred for the site plan required in Condition No. 3 of the Hearing Examiner's Report and Recommendation. [W/S 5-31-06].
23. **S-390, Petition of Twin Farms Club, Inc.** (community swimming pool). Letter to the Board from Teresa A. McKenna, President, requesting an administrative modification. (Large exhibit: site and grading plan). (1) Item deferred for receipt of a site plan with the existing conditions; (2) item referred to M-NCPPC Technical Staff for review of administrative modification request. [W/S 2/18/04].
24. **S-2328, Petition of Judith Himmelfarb** (accessory apartment). Letter to the Board from Ariel De notifying the Board that the special exception has been abandoned and requesting that it be revoked. Item deferred until confirmation that the accessory apartment's kitchen as been removed. [W/S 7/26/06].
25. **S-2423 [S-2423-A], Petition of Meadow Ridge Seniors' Villas, LLC** (elderly or handicapped housing). Letter to the Board from Randy Frey, President, and Robert H. Holman, Managing Member, requesting an administrative modification. [Large exhibits: landscaping and lighting plans]. (1) Deferred administrative modification request for 60 days; (2) administrative modification request reviewed by M-NCPPC Technical Staff. [W/S 12/7/05].
26. **S-2453, Petition of Academy Child Development** (child day care facility). Letter to the Board from Marilyn Fleetwood, President, requesting an administrative modification. Item deferred for additional information and what will be the impact of peak travel time. [W/S 5-31-06].
27. **S-2527, S2528, S-2529, Petition of Twin Ponds Farm, LLC** (wholesale horticultural nursery, landscape contractor, manufacture of mulch and compost). Letter of complaint from Robert A. Thomassen, Diane M. Hogan, John and Stephanie Egly, and Sugarloaf Citizens Association by Jane Hunter with a request that the Board convene a revocation hearing. Also included are letters from Erica Leatham, Esquire, requesting that the Board defer this request until its next Worksession. (1) Re-opened the record to include letters dated 4/21/06, 5/1/06, 5/5/06, 5/9/06, (2) request inspection by the Department of Permitting Services (DPS) to determine where special exception stands in terms of its implementation. [W/S 5/10/06].
28. **S-2666, Petition of Orlando Martinez and Martha Gaitan** (accessory apartment). Hearing Examiner's Report and Recommendation. Item deferred until receipt of a revised landscape plan. [W/S 6/28/06].

Board Members

Allison Ishihara Fultz, Chair
Donna L. Barron, Vice Chair - ABSENT
Wendell M. Holloway
Caryn L. Hines
Catherine G. Titus

Staff

Barbara Jay, Associate County Attorney
Katherine Freeman, Executive Director
Hermene Jones, Administrative Specialist